

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, Sept. 18, 2018
6:00 p.m.

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPS = Warren County Planning Staff
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Dept. of Environmental Conservation

Present: Joy Barcome, Holly Dansbury, Jason Saris, Lorraine Lefevé, Carla Cumming, Jeff Anthony, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent:

The meeting was called to order at 6:00 pm.

Jason Saris asked if there were any corrections or changes to the August 14, 2018 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the August 14, 2018 minutes as presented. Seconded by, Carla Cumming. All in Favor. Motion Carried.

- 1. V18-16 PASSARO, FRANK.** 1) Seeks use variance for a marina; and 2) to place a 12'x 20' canopy over existing ping pong table, seeks area variance for a deficient side yard setback. 20' is required, 7' is proposed. Section 200.06, Block 1, Lot 21, Zone RM1.3. Property Location: 4410 Lake Shore Drive known as Cool Ledge Resort. Subject to WCPS review. Subject to SEQR. In accordance with Section 200-66, the Planning Board offered on advisory opinion on August 16, 2018 as it pertains to the use variance.

Jason Saris explained to Mr. Passaro that he was a marina owner and sat on the BLDC Board. He stated that he did not feel that there was a conflict, but if Mr. Passaro felt that there was one, he would gladly step down. Mr. Passaro stated he did not feel that there was a conflict.

Mr. Passaro stated he had received new information relatively late in the afternoon and respectfully requested that his application be tabled.

Jeff Anthony asked the applicant if he would like to hear what the Board would be looking for from him for the use variance. Mr. Passaro stated he would. Jeff Anthony explained that a use variance was very difficult to substantiate. He stated the burden of proof was on Mr. Passaro to convince them that circumstances warrant the issuance of a use variance. The largest one being economic information showing that he cannot develop the property in such a way under existing conditions that he would receive an economic return on it. He would also have to go a step further and show any use that is allowed by right in that zone, must be substantiated that

they are not practical or possible to operate or convert to and still receive an economic return that is viable. This is the burden of proof he must provide to the Board among other items. He would also like to see a site plan.

RESOLUTION

Now, upon motion duly made by John Whitney and Seconded by, Joy Barcome it is resolved that the ZBA does hereby table this application at the applicant's request. **All in favor.**

Motion Carried.

2. V18-22 8 HORICON AVENUE, LLC. Represented by Jerri Woodard. To demolish a 3-unit residential apartment building and replace with a 2-unit residential apartment building, seeks area variance for 1) deficient setbacks. Front: 30' is required, 1.65' is proposed from the private right-of-way on the east side. Side: A total of 20' is required. 2' is proposed on the west side. Rear: 15' is required, 7.7' is proposed. 2) Lot Coverage: 40% is allowed, 41% is proposed. 3) Density: 15,000 square feet is required. 3,920 square feet exists. Section 171.15, Block 2, Lot 34, Zone GB5000. Property Location: 8 Horicon Avenue. Subject to WCPS review.

Jerri Woodard presented the following:

- The property currently has a 3-unit, multi family structure on it.
- The lot is very narrow.
- The current non-conforming structure is 32' wide and 46' long.
- The current setbacks are 6" on the west, 1.9" on the east and 9" in the rear.
- They will be demolishing this structure and building a new building.
- They will be reducing the density to a 2-unit, multi family structure.
- The existing non-conformances will be reduced.
- There will be a porch and deck on both floors in the front.
- The structure will set well behind the 30' setback in front.
- There is ample room to park 4 cars.
- The building colors will be tan with a white trim.
- The lighting will be dark sky compliant.
- They will have a 2' gravel drip edge along the 3 sides of the building.

Holly Dansbury asked about the height of the building. Ms. Woodard replied that it would be 34.8'. Holly Dansbury asked if there was a basement. Ms. Woodard replied that there was a crawl space now and they would be adding a basement. Holly Dansbury asked if it would be a walk out basement. Ms. Woodard replied that it would not.

Carla Cumming asked if these would be year round rentals. Ms. Woodard replied that they would be occupied by the owner and would have intermittent rentals during the summer when they are not there.

Lorraine Lefevre inquired about the driveway. Ms. Woodard stated that it was 10' wide.

Jason Saris asked if the new building encroaches on Horicon Avenue more than the existing building, but all the other setbacks would encroach less. Ms. Woodard said this was correct.

Jason Saris asked if there was a plan for controlling the water coming off from the building. Ms. Woodard stated they would have footer drains and a 2' drip edge all the way around the 3 sides.

David Becker inquired if they would be repaving the driveway or putting up any fences. Ms. Woodard replied no.

RESOLUTION

The Zoning Board of Appeals received an application from 8 Horicon Avenue, LLC., (V18-22) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #2 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is a very small lot with a pre-existing non-conforming structure that the applicant has reduced essentially in all directions. This will be a marked improvement.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is a residential area and residential project.
- 3) The request is not substantial. They are less significant than the pre-existing, non-compliant building.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will be reducing runoff issues.
- 5) The alleged difficulty is self-created; In weighing the factors, the benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and Seconded by, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

- 3. V18-23 TWIN BOLTON II, LLC.** Represented by Studio A Landscape Architecture. To convert a motel complex into residential property, seeks area variance for the following. Main Lodge Building (A) to be converted into a single-family dwelling: Deficient setbacks: Front: 30' is required, 5.53' is proposed from the private right-of-way on the south side. Rear: 15' is required, 11.40' is proposed. Motel Building (D) to be converted into a guest cottage: Deficient side yard setback. 8' minimum is required, 1.57' is proposed. Building (K) storage building: Deficient side yard setback. 8'

minimum is required, 2.64' is proposed. Building (L) tiki-bar: Deficient side yard setback. 8' minimum is required, 2.87' is proposed. Section 186.07, Block 1, Lot 7, Zone RCH5000. Property Location: 4804 Lake Shore Drive formerly known as Twin Bay Village. Subject to WCPS review. Site Plan Review approval is required but has not yet been applied for.

Jeff Anthony recused himself.

Kristen Catellier of Studio A Landscape Architecture presented the following:

- The project is located at 4804 Lake Shore Drive and located on the east side of Route 9.
- The applicant owns both sides of the road, but they are only here for the lake side tonight.
- The property is located within the hamlet and is currently commercial.
- They are turning it into residential.
- There are 12 individual structures on the site.
- She detailed the plans to the Board.
- The main lodge will be renovated into a single-family residence.
- This will include an addition of a covered entry porch, a 2 car garage with a connecting breezeway and a covered patio on the lake side portion of the house.
- 6 of the 8 individual cabin buildings are to be removed from the site.
- The remaining 2 cabins will be renovated for seasonal use.
- 1 will be a tiki bar for the residents only.
- The other will be for storage.
- They will be repositioned but will not add to any non-conformity.
- All existing hardscape is to be removed.
- They are looking for permeable pavement for the driveway.
- They will be using dark sky compliant lighting on the columns at the beginning of the driveway.
- They plan to landscape the property heavily with native materials.
- All stormwater practices will be rain gardens or bio filters.
- Utilities will include a new septic system across the street.
- The docks will be renovated.
- The overhead electric service will be rerouted and buried on the south portion of the property.
- She detailed the setbacks to the Board.
- They are reducing the buildings by 36%.

Trevor Flynn of Balzer & Tuck Architecture presented the following:

- They plan to reuse as much of the existing structure in the main lodge as they can while reducing the overall square footage and footprint where they can.
- They have 5 children and 2 in laws, which is why they need the 7 bedrooms.
- This will be a multi-generational property.
- He detailed on the plans where they will be reducing the asphalt and replacing with permeable pavement.

- The building materials are earth tone in general.
- The chimneys do not exceed the height requirements.
- All of the glass will be non-reflective.
- All lighting will be dark sky compliant.
- It is a unique structure comprised of 4 or 5 different timber frames.
- This is a larger footprint than a typical house, but most of it is within the existing footprint.
- The tiki area would have a kitchen area and bathroom.

Jason Saris asked if all of the structures met the shoreline setbacks. Zoning Administrator, Pamela Kenyon stated they did.

Jason Saris asked for the dimensions of the tiki and storage structures. Mr. Flynn replied that they were 16' x 18'.

Holly Dansbury asked if the whole property was for one extended family and had nothing to do with the property across the street. Ms. Catellier said they were both owned by the same family, but they had not decided what they wanted to do on the other side of the street. This was separate. Holly Dansbury asked if this residence would be the only one with access to the lake front. Ms. Catellier said this was correct. Holly Dansbury stated she liked that they were including stormwater and asked for more information on this. Ms. Catellier stated that this would be fully developed for the Planning Board by their engineer.

Carla Cumming stated she appreciated that this application was so complete. She asked if the guest residence would be seasonal. Mr. Flynn stated it would be mainly seasonal. It would be totally renovated and brought up to code.

John Whitney inquired about parking spaces. Ms. Catellier replied about 6.

John Whitney asked about the leach field. Ms. Catellier stated that it would be across the road.

Jason Saris asked if there would be a tank and float system and where it would be located. Mr. Flynn detailed them on the plan. Jason Saris asked if they would all be below ground. Mr. Flynn stated they would.

Lorraine Lefevé asked about the beach area. Ms. Catellier replied that the beach would be cleaned up and they were working with the Dock Doctors to update the docks which was still in the works. Lorraine Lefevé asked how many boats. Mr. Flynn replied it would be the same amount of square footage that currently exists. They were not looking to add any more docks. Jason Saris stated the town does not have any jurisdiction over the docks.

Chris Navitsky, Lake George Waterkeeper stated the following:

- He liked the concept and the reduction of building square footage and impervious surfaces.
- He has concerns about stormwater. There is a problem to the south where stormwater

is going on to the neighboring property.

- He likes the rain gardens, but not the bio retention areas.
- He would like to see a shore line buffer.
- He thinks the tiki bar should not be on the property line and there should be screened from the neighboring property.
- The rendering did not show the outdoor patio which should have some screening.

Joe Mylot lives on the north side of the property and wanted to know if there would be fencing on either side. They are very happy with this project in general.

Mary Sprague, owner of The Point said it was a lovely plan, and her only concern was the tiki bar. They would be very happy if they could move it.

Zandy Gabriels stated he would like to concur with Mr. Navitsky's comments on the tiki bar and its potential negative impacts on the Sembrich Studio. He presumes that the sewer will have the permanent easements to make them acceptable. He is curious what the mechanism is to insure the people across the street will not have access to the beach.

Jacob Russell asked where the people would be parking if they are renting out the dock slips.

Nancy Shane asked if the driveway would be repaved. Ms. Catellier stated it would be resurfaced. Nancy Shane asked if there were any assurances that the remaining motel units would not be rented. Ms. Catellier replied that they were for the family. Mr. Flynn replied that they were existing units that they were repurposing. Ms. Shane asked if the docks were for strictly for the family. Mr. Flynn stated they would not be renting docks.

Mr. Flynn stated that the name tiki bar was a loose term. It is going to be a place to store food and enjoy. He did not believe there would be any parties going on there

Holly Dansbury asked if it would be feasible to turn the tiki bar opening and patio away from the Sembrich. Mr. Flynn stated they would like a view of the lake. He said they had studied different positions, and this was the best for what they needed.

Nancy Shane asked about a toilet facility in the tiki bar. Mr. Flynn stated that there was an existing bathroom in it and they planned to keep it. It would be compliant with all regulations.

Holly Dansbury said she had concerns with the screening and placement of the tiki bar. Lorraine Lefevre suggested that they incorporate some sound screening to address the concerns of the Sembrich. Mr. Flynn stated that they planned to heavily vegetate and plant the buffers. They were still working through the plan.

John Whitney stated that noise moves in both ways. It is a reasonable plan and they have said they will remediate with plantings.

Mary Sprague said she did not know how they could heavily plant in that small area. Mr.

Flynn said they could add almost 2 layers of plantings.

RESOLUTION

The Zoning Board of Appeals received an application from Twin Bolton II, LLC., (V18-23) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #3 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This property was created with lots of non-conforming structures and they have done an excellent job in reducing them.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This has been a property that was an eyesore, and this is a great plan with reduction of impervious surface and square footage along with added stormwater.

3) The request is not substantial. They are reducing some of the non-conforming setbacks.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are improving the property.

5) The alleged difficulty is self-created; They inherited the property as it is.

In weighing the factors, the benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Holly Dansbury and Seconded by, Carla Cumming it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) Screening is to be included on the south, side yard setback behind the tiki bar as part of the site plan. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

- 4. V18-24 DEPACE, ANTHONY & GAIL.** Represented by Gary Hughes. To demolish and rebuild single family dwelling, seek area variance for 1) Deficient setbacks. Front: 50' is required from the private rights-of-way. 6.5' is proposed on the southwest side and 22' is proposed on the northeast side. Sides: 8' minimum is required, 5.6' is proposed. 2) Lot coverage: 15% is allowed, 24% is proposed. Section 186.06, Block 1, Lot 12, Zone RM1.3. Property Location: 6 Belle Lodi Lane. Subject to WCPS review.

Gary Hughes presented the following:

- They would like to tear down the existing building and replace it with another structure that is decreased in height and size.

Joy Barcome asked if they were building on the same footprint. Mr. Hughes replied that they were, but they would be decreasing the garage. They would be reducing it from 34% lot coverage to 24% lot coverage.

Carla Cumming asked if the basement would be on grade. Mr. Hughes replied that it would be. They would like a small crawl space for the mechanicals if possible.

Chris Navitsky, Lake George Waterkeeper stated he supported the project and the reduction of overall lot coverage. He stated there were stormwater concerns for the area and he would like a condition of stormwater mitigation. He also asked if the septic would be a new system and if not, how they would be protecting it during construction. Tony DePace stated they would be having a new septic system put in, and they would see what could be done for stormwater mitigation.

RESOLUTION

The Zoning Board of Appeals received an application from DePace, Anthony & Gail, (V18-24) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The existing house is dated and needs improving.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement with added stormwater and an updated septic.
- 3) The request is substantial. The footprint will be reduced, and it will be an improvement.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It will be an improvement.
- 5) The alleged difficulty is self-created; They bought a house that needs improvement and in weighing the factors, the benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Joy Barcome and Seconded by, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

5. V18-25 R & RC TRUST. Represented by Gary Hughes. To demolish and rebuild office building, seeks area variance for deficient setbacks. Front: 30' is required, 17.5' is proposed. Shoreline: 50' is required, 27.3' is proposed. Side: 8' minimum is required, 4.8' is proposed. Section 186.06, Block 1, Lot 3, Zone RCH5000. Property Location: 4782 Lake Shore Drive known as Chic's Marina. Subject to WCPS review. See SPR18-16 associated with this project.

Lorraine Lefevre inquired about the setbacks. Mr. Hughes stated that they would not be moving any closer to the lake.

Tony DePace said the building was rotting and they would be shortening the building up roughly about 40' and moving it sideways from east to west. They would be removing the blacktop from the area in front of it on the lake side and replacing it with sand.

Jason Saris asked how long the building had been there. Mr. DePace replied about 36 years.

Holly Dansbury asked if they would be improving part of the shore line setback. Mr. DePace replied yes. He said they were 28' from the shoreline now.

Jason Saris asked what the length of the current building along the shoreline was. Mr. Hughes stated he thought it was 65'. It was being replaced with a building that was 43' reducing it roughly 25+'. Mr. DePace said they would also be removing asphalt around it. Holly Dansbury asked if they could improve it any more. Mr. DePace said they could not, they needed that amount of space for storage and office space.

Jason Saris stated that this new structure will impact the shoreline less than what currently exists.

Atty. Muller read a letter in opposition to V18-24 & V18-25 signed by:

Dan Bennett
Daureen Bennett
Jack Sibilla
Judy Sibilla
Dr. Douglas Langdon
Arlene Langdon

Jason Saris stated that he did not see how reducing lake front setbacks and replacing an existing building that encroaches less threatens the environment when the applicant clearly has the right to rebuild the building that is already there.

Carla Cumming asked for the difference in height in the old and new building. Mr. Hughes stated they would be raising it roughly 10'.

Chris Navitsky, Lake George Waterkeeper stated he was not opposed to the project, but he would like to see considerations for stormwater mitigations to control erosion. Mr. DePace

stated that they would be putting a flower box on the side of the building 4' out and 3' deep with planting so the water coming off the roof could go into it. Mr. Navitsky said he thought that would be good.

RESOLUTION

The Zoning Board of Appeals received an application from R & RC Trust (V18-25) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #5 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is an improvement over what currently exists, reducing the impacts.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be a newer and nicer building and is consistent with the existing buildings.
- 3) The request is substantial. The requested setbacks are no greater than what currently exists.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The planter in front of the building will reduce the impact of water entering the lake.
- 5) The alleged difficulty is not self-created; This is a pre-existing, non-conforming building in need of repair to maintain its structural integrity.

In weighing the factors, the benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and Seconded by, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1). Stormwater controls are to be implemented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

The meeting was adjourned at 7:55pm

Minutes respectfully submitted by Kate Persons